

SERVICE DATE – LATE RELEASE OCTOBER 3, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42090

WTL RAIL CORPORATION—PETITION FOR DECLARATORY RELIEF

STB Ex Parte No. 230 (Sub-No. 8)¹

IMPROVEMENT OF TOFC/COFC REGULATIONS—
WTL RAIL CORPORATION PETITION FOR PARTIAL
REVOCATION OF EXEMPTION

Decided: October 3, 2005

On December 14, 2004, WTL Rail Corporation (WTL) filed a petition under 5 U.S.C. 554(e) and 49 U.S.C. 721 seeking a declaratory ruling from the Board that: (1) certain practices of CSX Transportation, Inc. (CSXT) constitute an unreasonable practice in violation of 49 U.S.C. 10702 and 10704(a)(1); and (2) CSXT's refusal to use WTL's trailers as part of its 48-foot trailer fleet jeopardizes CSXT's ability to fulfill its car service obligations under 49 U.S.C. 11121-22. WTL seeks a cease and desist order. WTL also asks that the Board compel CSXT to use WTL's trailers and set a "default" rate for trailer compensation in the event the parties are unable to reach terms through negotiation. WTL concurrently filed a petition under 49 U.S.C. 10502(d) and 49 CFR 1121.1, *et seq.* for partial revocation of the class exemption adopted in Improvement of TOFC/COFC Regulation, 364 I.C.C. 731 (1981).

By decision served on February 8, 2005, CSXT and CSX Intermodal (CSXI) were granted an extension until February 15, 2005, to respond to WTL's petitions. Decisions served February 15, March 17, April 15, May 18, June 24, August 4, and September 1, 2005, granted requests by the parties to hold the proceedings in abeyance to give them additional time to conduct settlement discussions. The most recent decision held the proceedings in abeyance until October 3, 2005, and directed the parties to report back to the Board on September 30, 2005, as to the status of those discussions and as to when CSXT and CSXI replies, if any, should be due.

In a letter dated September 30, 2005, WTL reports that the parties have made substantial progress towards a settlement. According to WTL, the parties are negotiating over certain documentation, and the parties believe that further discussion will result in agreement and settlement. WTL requests that the Board continue to hold these proceedings in abeyance for

¹ The proceedings are not consolidated. A single decision is being issued for administrative convenience.

another month, until October 31, 2005,² to give the parties additional time to conduct settlement discussions. Counsel for WTL states that CSXT and CSXI concur in the extension request.

The request to continue to hold these proceedings in abeyance is reasonable and will be granted. The parties are directed to report back to the Board on October 28, 2005, as to the status of those discussions and as to when CSXT and CSXI replies, if any, should be due.

It is ordered:

1. These proceedings will be held in abeyance until October 31, 2005.
2. This decision is effective on the date served.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

² The parties requested that the Board continue to hold these proceedings in abeyance until October 30, 2005. Because October 30th falls on a Sunday, we will hold these proceedings in abeyance until October 31, 2005, the next business day.